



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Machinery Associates, Inc.
File: B-237407
Date: February 1, 1990

C. W. Rosner, President, Machinery Associates, Inc., for the protester.
Donald W. Roeder, Viereck Company, for the interested party.
Maryann L. Grodin, Associate Counsel, Office of General Counsel, Department of the Navy, for the agency. Richard Burkard, Esq., Andrew Pogany, Esq., and Michael Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

General Accounting Office will not disturb the contracting agency's determination that the awardee's boring and milling machine complies with specification requirement, where the awardee's offer specifically stated that the offered equipment would comply with the specification in question, and commercial literature included with the awardee's offer indicated that the required feature meeting the specification was an optional item commercially available for the offered model.

DECISION

Machinery Associates, Inc., protests the award of a firm, fixed-price contract to Viereck Company under request for proposals (RFP) No. N00600-89-R-2868, issued by the Naval Regional Contracting Center, Washington, D.C., for a boring and milling machine with computer numerical control. Machinery Associates contends that the awardee's offered product does not meet the RFP's technical requirements.

The agency issued the RFP on May 22, 1989. The RFP generally provided that award would be made to the low, technically acceptable offeror. Three proposals were received by the closing date, which, by amendment, was extended to July 12. The agency determined that all three proposals were technically unacceptable as submitted but capable of being made acceptable and therefore determined

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that all three offerors would be included in the competitive range. On August 1, the contracting officer notified the offerors of the deficiencies in their proposals and requested revised proposals. The agency's technical evaluator reviewed the revised proposals and concluded that the revised proposals of Viereck and Machinery Associates were technically acceptable. On September 15, the contracting officer requested best and final offers. Viereck submitted the lowest priced offer and, on September 27, award was made to that firm.

Machinery Associates alleges that Viereck does not comply with the solicitation provision requiring a spindle speed range from 15-3000 RPM for the boring and milling machine.^{1/}

Regarding the requirement for the spindle speed range specified, the agency states that Viereck's machine is capable of the highest speeds required by adjusting the gearing ratio and bearings internal to the headstock. Viereck, as an interested party, asserts, and the agency's technical evaluator agrees, that this is a simple procedure. In this regard, the protester also acknowledges that, "on the surface, it appears that [the awardee's machine] meets the specifications." However, it argues that changing the gearing and bearings as contemplated by the awardee will cause heat build-up and thermal growth which could affect the accuracy and durability of the machine. The agency responds by advising our Office that a refrigeration system supplied as part of Viereck's hydraulic system to control fluid temperature will prevent such adverse heat build-up.

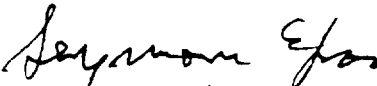
The contracting agency is responsible for evaluating the information supplied by an offeror and ascertaining whether it is sufficient to establish the technical acceptability of its offer, since the contracting agency must bear the burden of any difficulties incurred by reason of a defective evaluation. Motorola Inc., B-236294, Nov. 21, 1989, 89-2 CPD ¶ 484. Where technical supplies or services are involved, the contracting agency's technical judgments are entitled to great weight, and we will not substitute our

^{1/} Machinery Associates also contended in its original protest that the awardee's machine did not meet the alignment tolerances specified in the RFP. In its report, the agency specifically addressed and refuted this contention. In its comments on the agency's report, Machinery Associates neither rebuts nor expresses any disagreement with the agency position. Accordingly, we consider that issue to be abandoned by the protester. Morey Machinery, Inc., B-234124, May 10, 1989, 89-1 CPD ¶ 440.

judgment for the agency's unless its conclusions are shown to be unreasonable. Harris Corp., B-235126, Aug. 8, 1989, 89-2 CPD ¶ 113.

Here, Viereck clearly promised to comply with the spindle speed range requirement. In this regard, the record shows that higher spindle speed capability was listed as an option in Viereck's commercial literature and that Viereck separately priced the option in its offer. Moreover, the agency technical specialist determined that Viereck could provide the required spindle speed without excessive heat build-up by changing the gearing and bearings internal to the headstock. We have no basis to disagree. Since Viereck's offer took no exception to any of the RFP's requirements, and since the descriptive literature included with its offer showed higher speeds as an option, we find that the Navy reasonably determined Viereck's offer to be technically acceptable. Accordingly, we will not disturb the agency's determination.

The protest is denied.


James F. Hinchman
General Counsel